

LIMITED LIABILITY COMPANY
ARTICLES OF ORGANIZATION



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Revised January 2000

(Alternate formats for disabled persons are available upon request.)

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INTRODUCTION

North Dakota Century Code, chapter 10-32 allows for the formation of a limited liability company (L.L.C.). This form of business combines the characteristics of a partnership and a corporation.

This brochure includes information about the limited liability company structure and instructions for drafting articles of organization. It is intended as an informational resource. It is not intended as a substitute for legal or financial counseling. Individuals are encouraged to consult with their attorney and/or accountant before establishing a limited liability company.

The brochure does not include all the provisions of law that govern a limited liability company. Statutes can be accessed from North Dakota Legislative Council's web site at: www.state.nd.us/lr/statutes.html. Copies of the statutory chapters are also available from the Office of the Secretary of State. Copies can be obtained by contacting the Secretary of State's Business Division as indicated at the back of the brochure. North Dakota Century Code, Section 54-09-04 requires the Secretary of State to charge for copies of statutes. All fees received for copies of statutes go to the State's General Fund. The fees for statute copies are as follows:

N.D.C.C., Chapter 10-06.1 – Corporate or Limited Liability Company Farming:	\$3.00
N.D.C.C., Chapter 10-31 – Professional Association Act	\$3.00
N.D.C.C., Chapter 10-32 – North Dakota Limited Liability Company Act	\$26.00

ORGANIZERS
(N.D.C.C., Section 10-32-05)

One or more individuals may organize a limited liability company. The individuals must be at least eighteen years of age. Individuals do not need to be North Dakota residents to act as organizers under North Dakota law.

Name and addresses of organizers must be included in articles of organization. The articles of organization must bear the signatures of the organizers.

MEMBERS
(N.D.C.C., Section 10-32-06)

A limited liability company must have one or more members at the time of formation. A member is a person reflected in the required records of a limited liability company as the owner of some governance rights of a membership interest of the limited liability company.

EXISTENCE
(N.D.C.C., Section 10-32-07)
(N.D.C.C., Section 10-32-09)
(N.D.C.C., Section 10-32-109)

The existence of a limited liability company begins at the time a certificate of organization is issued by the Secretary of State or within ninety days after the certificate is issued if so provided in the articles of organization. The certificate is issued upon filing of articles of organization that meet all the requirements of law.

The existence of a limited liability company is perpetual unless limited to a period defined in the articles of organization. If not organized for perpetual existence, the articles must include the specific number of years the limited liability company is to exist, or the specific date (month, day, and year) on which the limited liability company shall cease to exist.

A limited liability company may cease to exist upon occurrence of certain events that terminate the continued membership of a member. If articles of organization are being filed after July 1, 1999, those events include:

- 1) When the period fixed in the articles of organization for the duration of the limited liability company expires;
- 2) By order of a court;
- 3) By action of the organizers;
- 4) By action of the members;
- 5) Upon occurrence of any event provided in the member-control agreement;
- 6) Termination of membership of the last or sole member and the legal representative does not cause the limited liability company to admit at least one member within 180 days after the termination;
- 7) A merger in which the limited liability company is not the surviving organization; or
- 8) When terminated by the Secretary of State for failure to file the annual report.

If limited liability company articles of incorporation were filed before July 1, 1999, see North Dakota Century Code, Section 10-32-109 for the events that may terminate the organization.

NAME
(N.D.C.C., Section 10-32-10)

The name of a North Dakota limited liability company must be in the English language or in any other language expressed in English letters or characters. The name must contain the words "limited liability company," or must contain the abbreviation "L.L.C." or "LLC."

The name of a North Dakota limited liability company may not include such words as "bank," "banker," or "banking," or any other word or words of like import. (N.D.C.C., Section 6-02-01) These words are reserved by law for the exclusive use of national and state banking corporations and the Bank of North Dakota.

If a name proposed for the limited liability company is the same as, or deceptively similar to, a name already reserved or registered with the Secretary of State, the articles will be rejected. The name may be used by the organization if the articles of organization are accompanied by:

- a) A signed consent to use of name from the holder of the previously registered name and \$10.00; or
- b) A certified copy of a judgment of a court in this state establishing the prior right of the applicant to the use of the name in this state.

You may call the Secretary of State's Business Division at the phone numbers provided at the back of the brochure, to request a preliminary search to see if the name you want to use is available. The Secretary of State may provide a verbal verification of availability without charge; however, a preliminary search for the name does not guarantee the right to the name. Do not make any investment or commitments in the name until a name reservation or articles of organization are filed and acknowledged by the Secretary of State.

PURPOSE
(N.D.C.C., Section 10-32-04)

A limited liability company may be organized for any business purpose, unless some other statute requires organization for those purposes under a different law, such as banking and insurance. A limited liability company may be an insurance agency engaged in the sale of insurance products; however, it may not be an insurance company backing the claims.

Limited liability companies engaged in farming or ranching must be organized according to the provisions of North Dakota Century Code, Chapter 10-06.1. The articles of organization of a limited liability company engaging in farming must be supported by an initial report disclosing the names and kinship of members, declaration of citizenship or alien status, declarations as to operation of the farm or ranch, and a description of all the land owned or leased. A form for the initial report can be obtained by contacting the Secretary of State's Business Division as indicated at the back of the brochure.

A limited liability company engaged in the practice of a licensed profession is organized under North Dakota Century Code, Chapter 10-31. A copy of the statutes relating to a professional limited liability company is available as explained on page 1. A copy of the certificate form for the regulatory board can be obtained by contacting the Secretary of State's Business Division as indicated at the back of the brochure.

**PRINCIPAL EXECUTIVE OFFICE
(N.D.C.C., Section 10-32-02, Subsection 2 and 37)**

The articles of organization of a limited liability company must include the address of the principal executive office. This address must include the mailing address and the actual office location which may not be only a post office box. The principal executive office is an office where the elected or appointed president of the limited liability company has an office. If the limited liability company has no elected or appointed president, "principal executive office" means the registered office of the limited liability company.

**REGISTERED AGENT/OFFICE
(N.D.C.C., Section 10-32-12)**

A limited liability company must continuously maintain a registered agent and office in the State of North Dakota. The name and address of the registered agent must be included in the articles of organization. The registered agent may be an individual residing in North Dakota, a domestic corporation or a domestic limited liability company, or a foreign corporation or a foreign limited liability company authorized to transact business in North Dakota with a business office in North Dakota. A corporation or limited liability company appointed to serve as registered agent must be registered with the Secretary of State and be in good standing. If a corporation or limited liability company is being named as registered agent, provide the "correct" name of the corporation or limited liability company. A limited liability company cannot serve as its own registered agent.

To properly identify registered agents, the federal ID number or social security number of the registered agent is required.

The articles of organization must include the **complete** address **in North Dakota** of the appointed registered agent. The address of the registered agent must include an actual office location, including a street or rural address, a post office box number if applicable for mailing purposes, and the city, state, and zip code. This address may not be only a post office box.

The registered agent must sign a consent to serve in the capacity of registered agent. A form is prescribed by the Secretary of State. The form can be obtained by contacting the Secretary of State's Business Division as indicated at the back of the brochure.

**CHANGE OF REGISTERED AGENT OR OFFICE
(N.D.C.C., Section 10-32-13)**

A limited liability company may change its registered agent or office by filing a statement of change with the Secretary of State. A change must be filed with the Secretary of State within thirty days after a limited liability company has experienced a change of registered agent or office address. Blank forms to file the statement of change can be obtained by contacting the Secretary of State's Business Division as indicated at the back of the brochure.

ARTICLES OF ORGANIZATION (N.D.C.C., Section 10-32-07)

The articles of organization of a limited liability company have a long-term retention period in the office of the Secretary of State. For that reason, it is preferred that the articles be prepared on white paper and they be typed in black ink. Colored paper or colored inks are more costly to retain in a scanned computer file.

A sample format is being provided to guide the drafting of articles of organization of a North Dakota limited liability company. This sample format contains the minimum of information required in the articles of organization. Articles of organization are subject to public inspection. Accessibility for public inspection may justify exclusion from the articles some detail regarding the internal government of the company. Most of these matters may by law be left to the bylaws. However, additional provisions may be included in the articles as provided in North Dakota Century Code, Chapter 10-32. The text and the order of any or all of the articles may be altered as long as the articles contain the minimum information required by statute.

Throughout the sample format, certain words and phrases are in bold print. These are the features of the format that need to be altered to reflect the requirements unique to the proposed limited liability company.

The paragraph preceding Article I: identifies the North Dakota Century Code which will govern the organization. A limited liability company that engages in farming or ranching must be organized pursuant to the CORPORATE OR LIMITED LIABILITY COMPANY FARMING ACT. Therefore, select one of the following statute titles as an insert in the paragraph preceding Article I:

- 1) LIMITED LIABILITY COMPANY, or
- 2) CORPORATE OR LIMITED LIABILITY COMPANY FARMING

In addition, the articles of organization must contain the following articles:

- a) the name of the limited liability company;
- b) the address of the registered office of the limited liability company and the name and social security/federal ID number of its registered agent at that address;
- c) the name and address of each organizer;
- d) the effective date of the organization if a later date than that on which the certificate of organization issued by the Secretary of State (may not exceed 90 days after the certificate is issued by the Secretary of State);
- e) if the period of existence for the limited liability company is to be limited, the date the limited liability company will expire;
- f) any other provisions as preferred by the limited liability company and permissible by North Dakota laws.

The articles must be dated and signed by all organizers named in the articles of organization. Documents submitted to the Secretary of State must bear original signatures. Only one signed original must be submitted to the Secretary of State.

**SAMPLE FORMAT
ARTICLES OF ORGANIZATION OF
LIMITED LIABILITY COMPANY**

(The **bold** items are to be completed by the applicant.)

I(We), the undersigned individual(s) of the age of eighteen years or more, acting as organizer(s) of a limited liability company organized under the North Dakota (**Limited Liability Company or Limited Liability Company Farming**) Act, adopt the following Articles of Organization for such limited liability company.

ARTICLE I: The name of the limited liability company is **NORTH DAKOTA ENTERPRISE LIMITED LIABILITY COMPANY**.

ARTICLE II: The name of the registered agent is **John Doe** whose social security number is **501-77-3428**. The address of such agent is **2237 West Boulevard, Wilton, ND 58570**. This address shall be the registered office in North Dakota.

ARTICLE III: The names and addresses of the organizers are:

**John Doe
2237 West Boulevard
Wilton ND 58579**

**Jane Bishop
8518 N Crystal St
Fargo ND 58192**

**Mark Marzo
8520 E Lansing
Bismarck ND 58501**

ARTICLE IV: The limited liability company shall be effective on **February 14, 2000** (or **date filed with the Secretary of State**).

ARTICLE V: The limited liability company shall have perpetual existence.

I(We), the above named organizer(s) have read the foregoing Articles of Organization, know the contents, and believe the statements made therein to be true.

Dated: January 3, 2000

*signed/John Doe

signed/Jane Bishop

signed/Mark Marzo

* Actual signatures

FEES
(N.D.C.C., Section 10-32-150)

The following fees are due and payable to the Secretary of State upon filing of organizational documents:

1.	Filing articles of organization	\$125
2.	Filing consent of registered agent	\$10
3.	Filing articles of amendment	\$50
4.	Filing restated articles of organization	\$125
5.	Filing articles of merger	\$50
6.	Filing abandonment of merger	\$50
7.	Filing a name reservation	\$10
8.	Filing a transfer of reserved name	\$10
9.	Filing a cancellation of reserved name	\$10
10.	Filing a consent to use of name	\$10
11.	Filing statement of change or registered agent/office	\$10
12.	Filing resignation of registered agent	\$10
13.	Filing a resolution to establish a class or series of membership interest	\$50
14.	Filing a notice of dissolution	\$10
15.	Filing a revocation of voluntary dissolution	\$10
16.	Filing articles of dissolution and termination	\$20
17.	Filing an annual report	\$50
18.	Filing any miscellaneous statement	\$10
19.	Filing any process, notice, notice or demand	\$25
20.	Submitting a document for approval before the actual time of submission for filing the document	(half of filing fee)

ANNUAL REPORTS
(N.D.C.C., Section 10-32-149)

An annual report will be required of a limited liability company in the year following that in which the certificate of organization is issued or effective. A limited liability company engaged in business or professional purposes will be required to file the report on November 15. A limited liability company engaged in farming or ranching will file an annual report on April 15. The Secretary of State will mail annual report forms to the registered agent.

TRADE NAME

North Dakota law does allow a limited liability company to use and operate under a name that is different from its limited liability company name. However, that name is then considered a trade name and it must first be registered with the Secretary of State. Contact the Secretary of State's Business Division for information regarding trade names and filing requirements.

ASSISTANCE

If assistance is required to complete the articles of organization, contact the Secretary of State's Business Division as indicated below.

EXPEDITING PROCESS

If documents are being submitted by someone other than the organizers, provide a cover letter with the name and telephone number of the responsible individual so that any deficiencies can be remedied by telephone.

MAILING INSTRUCTIONS & CONTACT INFORMATION

MAILING INSTRUCTIONS: Send originally signed documents to:

Secretary of State
State of North Dakota
600 E Boulevard Ave Dept 108
Bismarck ND 58505-0500

CONTACT INFORMATION:

Telephone: (701) 328-4284
Toll-free: (800) 352-0867 (84284)
Fax: (701) 328-2992
Web Site: www.state.nd.us/sec